

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE GOOGLE PLUS PROFILE  
LITIGATION

Case No. [5:18-cv-06164-EJD](#)

**ORDER GRANTING JOINT MOTION  
FOR INDICATIVE RULING AND  
INDICATING APPROVAL OF  
SETTLEMENT WITH OBJECTOR**

Re: Dkt. No. 118

On January 25, 2021, the Court granted final approval of class settlement in this action. Shortly thereafter, *pro se* Objector Steven Davis filed notice of appeal to the Ninth Circuit. On April 23, 2021, the parties filed a joint motion requesting an indicative ruling as to whether, upon remand from the Ninth Circuit, the Court will approve a stipulation and agreement of settlement reached between them.

Rule 23(e)(5) permits class members to object to proposed class action settlements and requires court approval of any payment in connection with “forgoing, dismissing, or abandoning an appeal from a judgment approving” a settlement. Fed. R. Civ. P. 23(e)(5)(A)-(B)(ii). If the parties do not obtain such approval “before an appeal has been docketed in the court of appeals, the procedure of Rule 62.1 applies while the appeal remains pending.” Fed. R. Civ. P. 23(e)(5)(C). Rule 62.1 permits the court to make an indicative ruling when the court lacks authority to grant a motion because an appeal has been taken. Fed. R. Civ. P. 62.1(a)(3).

The parties indicate that under the proposed settlement agreement, Class Counsel and the Plaintiffs have agreed to (1) write a letter to the Northern District of California’s Local Rules

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1 committee proposing certain modifications to the class action settlement guidelines; (2) adjust the  
2 attorneys' fees award based on time spent on the mediation and settlement; and (3) pay Mr.  
3 Davis's costs on appeal. If the agreement is approved, Mr. Davis would agree to dismiss his  
4 appeal with prejudice.

5 Having reviewed the parties' joint motion and proposed settlement agreement, the Court  
6 finds that the settlement would be in the best interest of the previously-approved Settlement Class.  
7 The settlement was reached through arms-length negotiations as a result of a mediation process,  
8 will prevent further expenditures on appeal at the expense of the Settlement Class, and will  
9 expedite payment to the Settlement Class. Therefore, the Court anticipates that it would grant a  
10 motion to approve the settlement if the Ninth Circuit remands this action for that purpose.

11 **IT IS SO ORDERED.**

12 Dated: April 23, 2021



EDWARD J. DAVILA  
United States District Judge

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